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JUL 2 5 2002

OFFICE OF PETITIONS

In re Application of: :
Myles Wakayama, Dana Vincent Laub, :
Frank Carr, Afshin Mellati, David :
S.P. Ho, Hsaing Bin Lee, Chun-Ying :
Chen, James Y.C. Chang, Lawrence M. :
Burns, Young Joon Shin, Patrick :
Pai, Iconomos A. Koullias, Ron :
Lipka and Luke Thomas Steigerwald :
Application No. 09/995,695 :
Filed: November 29, 2001 :
Title of Invention: INTEGRATED :
DIRECT CONVERSION SATELLITE TUNER :

DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47(a), filed April 10, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 29, 2001, without a fully executed oath or declaration. Accordingly, on December 10, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. A two month extension of time fee has been charged to deposit account 19-0036 as authorized in the Authorization to Treat Reply as Incorporating an Extension of Time Under 37 CFR 1.136(a)(3), filed with the instant application on November 29, 2001.

The petition is accompanied by the declaration of Jeffrey T. Helvey, Esq., which avers, in relevant part, that the declaration and assignment documents were sent to the nonsigning inventor at his last known address on January 11, 2002, and again on February 21, 2002, and no response has been received.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1), the applicant has failed to establish that the inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor before refusal can be alleged.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy